

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

United States of America

v.

MIGUEL BARAJAS /

Defendant

ORDER OF DETENTION PENDING TRIAL

Case Number: 10-30021

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

Part I – Findings of Fact

(1) I find that:

- there is probable cause to believe that the defendant has committed an offense
- for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. § 841 or 846;
- under 18 U.S.C. § 924(c).

(2) I further find that the defendant has not rebutted the presumption established by finding that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings

I find that the government has established by a preponderance of the evidence that there is a serious risk that the defendant will not appear.

I find that the government has established by clear and convincing evidence that there is a serious risk that the defendant will endanger the safety of another person or the community.

Part II – Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing established the following factors under 18 U.S.C. § 3142(g):

- (a) nature of the offense - Defendant is charged in a Criminal Complaint with Felon in Possession of a Firearm.
- (b) weight of the evidence - The evidence is very strong. Defendant has admitted the offense conduct.
- (c) history and characteristics of the defendant -
 - 1) physical and mental condition - Defendant admits to use of marijuana and Xanax.
 - 2) employment, financial, family ties - Has family ties; poor employment record; no assets.
 - 3) criminal history and record of appearance - Two prior weapons felony arrests since 2008, and one conviction.
- (d) probation, parole or bond at time of the alleged offense - On probation when offense conduct occurred. Has prior failure to appear conviction. State probation violation detainer on file.
- (e) danger to another person or community - This is Defendant's third arrest for felony firearms offenses since 2008. He is on probation for a felony weapons possession conviction. He is an admitted gang member and the gang was the source of the weapons seized in this case. One firearm was an assault rifle and the other is a stolen handgun. Defendant was charged in 2009 for firing a weapon from a motor vehicle. There is evidence that Defendant threatened potential witnesses in a state court case against other gang members accused of homicide. Defendant has expressed the intent to flee to Mexico, where his father is currently living. He has a conviction for failure to appear and the offense conduct violates his state probation. Pretrial Services recommends detention. I fully agree.

Part III – Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

s/Donald A. Scheer

Signature of Judge

Donald A. Scheer, United States Magistrate Judge

Name and Title of Judge

Date: January 28, 2010